

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

BRICE PRICE,)	
)	
Petitioner,)	
)	
v.)	No. 2:20-cv-00508-JPH-DLP
)	
PUTNAMVILLE CORRECTIONAL FACILITY,)	
WEXFORD HEALTH SOURCES, INC.,)	
)	
Respondents.)	

**Entry Dismissing Petition for a Writ of Habeas Corpus
and Directing Entry of Final Judgment**

Petitioner Brice Price, an inmate at the Putnamville Correctional Facility (PCF), filed an Emergency Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Mr. Price asserts that PCF creates an environment where contracting COVID-19 is inevitable because social distancing is impossible. Dkt. 1 at p. 1. He appears to seek relief from detention that allegedly violates his Eighth Amendment rights.

The § 2241 petition is subject to preliminary review to determine whether "it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court." Rule 4 of the *Rules Governing § 2254 Cases* (applicable to § 2241 petitions pursuant to Rule 1(b)); *see* 28 U.S.C. § 2243. If so, the petition must be summarily dismissed. Rule 4. That is the case here.

A federal court may issue the writ of habeas corpus sought in this action only if it finds the applicant "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). "A necessary predicate for the granting of federal habeas relief [to a

petitioner] is a determination by the federal court that [his or her] custody violates the Constitution, laws, or treaties of the United States." *Rose v. Hodges*, 423 U.S. 19, 21 (1975).

Mr. Price's petition must be dismissed because it does not state any claims that can be heard in a § 2241 petition. *See Robinson v. Sherrod*, 631 F.3d 839, 841 (7th Cir. Cir. 2011) (recognizing the court's "long-standing view that habeas corpus is not a permissible route for challenging prison conditions"). Mr. Price seeks to tack a traditional habeas remedy onto a prototypical conditions-of-confinement claim. When a prisoner "is not challenging the fact of his confinement, but instead the conditions under which he is being held, [the Seventh Circuit] has held that he must use a § 1983 or *Bivens* theory." *Glaus v. Anderson*, 408 F.3d 382, 386 (7th Cir. 2005). As a result, Section 2241 cannot be used by state prisoners to obtain release from state prison to escape the conditions of confinement caused by the COVID-19 pandemic. *See Rexroat v. Holcomb*, 2:20-cv-250-JPH-MJD (S.D. Ind. 2020).

In addition, the correct vehicle for a state prisoner seeking relief from a state court conviction is 28 U.S.C. § 2254, which "is the exclusive remedy for a state prisoner who challenges the fact or duration of his confinement and seeks immediate or speedier release." *Heck v. Humphrey*, 512 U.S. 477, 481 (1994). *See also Walker v. O'Brien*, 216 F.3d 626, 633 (7th Cir. 2000) ("[Section] 2254 [is] the exclusive vehicle for prisoners in custody pursuant to a state court judgment who wish to challenge anything affecting that custody...."). Moreover, Mr. Price is required to exhaust his available state court remedies before filing a federal habeas action and there is no indication that he has done so. *See* 28 U.S.C. § 2254(d)(2); *Money v. Pritzker*, — F.Supp.3d at —, No. 20-CV-2093, 2020 WL 1820660, at *20-21 (N.D. Ill. Apr. 10, 2020) (denying habeas relief based on COVID-19 conditions and finding that "Plaintiffs have not made a satisfactory showing that the state court system was not every bit as available as the federal courts, if not more

so."). Finally, Mr. Price has a civil rights lawsuit attacking the conditions of his confinement pending in *Price v. Putnamville Correctional Facility, et al.*, 2:20-cv-500-JMS-MJD (S.D. Ind.).

For these reasons, Mr. Price's § 2241 petition must be dismissed and his pending motion, dkt [4], is **denied as moot**.

SO ORDERED.

Date: 1/26/2021



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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PUTNAMVILLE CORRECTIONAL FACILITY

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